

## CHAPTER 16

### PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES

#### SECTION

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#### **6-16-1: PURPOSE, INTERPRETATION AND PROCEDURE**

- A.** The purpose of this Chapter 16 is to provide specific regulations for the placement, construction and modification of personal wireless telecommunications facilities. The provisions of this Chapter 16 are not intended and shall not be interpreted to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Chapter 16 be applied in such a manner as to unreasonably discriminate between the various different companies that provide personal wireless services. To the extent that any provision or provisions of this Chapter 16 are inconsistent or in conflict with any other provision of this Title, the provisions of this Chapter 16 shall control.
- B.** In the course of reviewing any request for any approval required under this Chapter made by an applicant to provide personal wireless service or to install personal wireless service facilities, the Board of Trustees shall act within a reasonable period of time after the request is duly filed with the Village, taking into account the nature and scope of the request. Any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.

- C. Should the application of this Chapter 16 have the effect of prohibiting a person or entity from providing personal wireless service to all or a portion of the Village, such provider may petition the Board of Trustees for an amendment to this Chapter 16, in the manner provided in Section 6-14-13. The Board of Trustees, upon receipt of such a petition, shall promptly undertake review of the petition, taking into account the nature and scope of the petition. Any decision to deny such a petition shall be in writing and supported by substantial evidence contained in a written record.
  
- D. All requests for approval of a personal wireless service facility will be reviewed by the Architectural Review Board, in the manner provided in Sections 2-3-4 and 2-3-5. Those personal wireless service facilities that require Special Use permits will be reviewed by the Zoning Board, in the manner provided in Section 6-14-14, in addition to the Architectural Review Board.

**6-16-2: PLACEMENT OF PERSONAL WIRELESS SERVICE FACILITIES:** A personal wireless service facility, as referenced in Section 6-2-2, may be erected or installed only in accordance with this Title 6, Chapter 16 of the Village Code. The personal wireless service facility shall conform to all minimum setback, yard and height requirements (except where otherwise noted in this chapter) of this Title 6, and to all applicable Federal laws and regulations concerning its use and operation. Any personal wireless service facilities, whether “impact” or “no impact,” that are not attached to an existing principal structure shall be permitted on a single lot with that existing principal structure ( as per section 6-3-1), provided that 1) the existing principal structure was not constructed for a personal wireless service facility; and 2) the personal wireless service facility being proposed is a maximum of 25' from the nearest part of the existing principal structure (this may extend to fifty feet (50') upon the written concurrence of the Village Engineer certifying that the personal wireless service facility cannot be constructed within 25' of the principal structure due to structural reasons); and 3) no more than one structure carrying a personal wireless service facility or facilities that is not attached to an existing principal structure is permissible on a single lot. No more than one (1) “impact” facility will be permitted on a single lot. No freestanding antenna poles shall be permitted except in the M1, O/Ic and O/Id Zoning Districts. A personal wireless service facility may be created or installed only in the following zoning districts and only according to the accompanying standard:

- A. M1, O/Ia, O/Ib, O/Ic and O/Id. A personal wireless service facility may be erected or installed in the M1, O/Ia, O/Ib, O/Ic and O/Id Zoning Districts, but only under the following conditions:
  - 1. No Impact Facility (as referenced in Section 6-2-2) - A personal wireless

service facility that is a “no impact” facility, may be installed in the M1, O/Ia, O/Ib, O/Ic and O/Id Zoning Districts. A personal wireless service facility that is affixed to an existing structure, and meets the definition of a “no impact” facility, does not require a Special Use permit. All other “no impact” facilities in the M1, O/Ia, O/Ib, O/Ic, and O/Id zoning districts will require a Special Use permit.

2. Impact Facility - A personal wireless service facility that is not a “no impact” facility shall be considered an “impact” facility, and may be installed in the M1, O/Ic and O/Id Zoning Districts, but only as a Special Use, and only behind the front plane of an existing principal structure. Impact facilities, such as a free-standing antenna pole (as referenced in Section 6-2-2), shall not exceed a height of 115' above grade

B. B1, B2, E, R4 and R5. A personal wireless service facility may be erected or installed in the B1, B2, E, R4 and R5 Zoning Districts. A personal wireless service facility in these zoning districts must meet the definition of a “no impact” facility. A personal wireless service facility that is affixed to an existing structure, and meets the definition of a “no impact” facility, does not require a Special Use permit. All other “no impact” facilities in the B1, B2, E, R4 and R5 zoning districts will require a Special Use permit.

C. R1, R2, R2A and R3. A personal wireless service facility may be erected or installed in the R1, R2, R2A and R3 Zoning Districts only as a Special Use. A personal wireless service facility may not be located on a lot used for residential purposes or a vacant lot in the R1, R2, R2A and R3 zoning districts. A personal wireless service facility in these zoning districts must meet the definition of a “no impact” facility.

### **6-16-3: CO-LOCATION OF PERSONAL WIRELESS SERVICE FACILITIES**

A. In considering a request for approval of a Special Use to permit the installation of personal wireless service facilities. The Zoning Board or the Board of Trustees, as the case may be, shall, in addition to the Standards for Review set forth in Sections 6-14-11 and 6-14-14 of this Title 6, also give due consideration and weight to whether the plans submitted will provide for co-location of other personal wireless service equipment on the same structure, so as to minimize the proliferation of antenna-supporting structures. The best available information on existing personal wireless service facilities within one-thousand (1,000) feet, as measured from the property line on which the personal wireless service facility is proposed, shall accompany any request to locate a new personal wireless service facility.

- B. Due consideration shall also be given as to whether the applicant has sought and been denied the opportunity to co-locate its personal wireless service facility on an existing antenna-supporting structure. The applicant must demonstrate the necessity for locating a personal wireless service facility on any site being proposed in the Village.
- C. In considering a request for approval of a Special Use or variations to permit the installation of personal wireless service facilities, the Zoning Board or the Board of Trustees, as the case may be, may, by express condition, require that the applicant allow, on a commercially reasonable basis, other providers of personal wireless telecommunications services to co-locate additional personal wireless services facilities on a free-standing structure which is part of the applicant's proposed personal wireless service facility, where such co-location is technologically and structurally feasible.

**6-16-4: DESIGN ISSUES**

**A. COMMUNICATIONS SUPPORT BUILDINGS OR CABINETS**

These support structures shall, whenever practical, be located within a lawfully pre-existing structure. If this is not possible, then these structures shall have an exterior finish compatible with the natural or built environment surrounding the site.

**B. SCREENING**

The Village may require any combination of existing and additional vegetation, topography, walls, decorative fences or other features to achieve the goal of minimizing the visual impact of the site. All requirements for screening, as referenced in Title 6, Chapter 15, shall apply to ground-mounted antenna poles and support structures. However, rooftop screening must be accomplished in accordance with the rooftop screening requirements, as referenced in Title 5, Chapter 1-10.

**C. FENCING**

All fencing shall be in compliance with the requirements of Title 6, Chapter 15 of this code. If fencing is utilized, the landscape strip, as required in Title 13, Chapter 2, must be placed outside of any fencing.

**6-16-5: OTHER STANDARDS**

**A. SIGNAGE**

The following signage is permitted: 1) Signage mandated by applicable law or regulations, 2) A single sign, per antenna structure, erected at eye level or below, which provides only the name of the company and an emergency phone number, and 3) a single "No Trespassing" sign. The maximum permitted size for each of these signs is one (1) square foot, unless a larger size is mandated by applicable laws or regulations.

- B.       **LIGHTING**  
No lighting of any towers shall be allowed, other than that which is specifically mandated by Federal or State law or regulations.
- C.       **COMPLIANCE**  
All personal wireless service facilities must maintain compliance with the plans and specifications approved by the Board of Trustees. If the personal wireless service facility becomes non-compliant with approved plans and specifications due to, but not limited to: discoloration, cracking, missing components, rusting, settling, damage or general disrepair; then the owner of the personal wireless service facility and the owner of the building or lot on which the personal wireless service facility is located will be jointly and severally responsible for remedying the specific non-conformities. These non-conformities must be remedied within forty-five (45) days after written notice, detailing those non-conformities, is sent by the Village to the owner of the personal wireless service facility and the owner of the building or lot. Failure to remedy all of the cited non-conformities, within the forty-five (45) day time period, shall be subject to the fine set forth in the Comprehensive Fine Schedule of the Code described in 17-1. (Ord. Amd. 10-3131-08, eff. 3/22/10)
- D.       **PROTECTION**  
Every personal wireless service facility shall be protected against unauthorized climbing or other access by the public.
- E.       **STORAGE**  
Vehicular and outdoor storage associated with personal wireless service facilities is prohibited on any site containing said facilities.
- F.       **INTERFERENCE**  
In considering a request for approval of a Special Use or variations to permit the installation of personal wireless service facilities, the Zoning Board or the Board of Trustees, as the case may be, may require that the applicant demonstrate that the proposed personal wireless service facilities will not interfere with any existing Village public safety communication systems, or residential or commercial application including, but not limited to, television and radio broadcast signals.
- G.       **ENGINEERING**  
No personal wireless service facility may be located within the Village unless the Applicant has provided to the Village the written certification of a professional engineer licensed by the State of Illinois that the structure upon which the facility is located is sufficient from a structural engineering standpoint to bear the load. In instances of free-standing structures, this shall include a certificate that the foundation of the structure is

built, constructed and engineered to take into account the existing soil conditions. A licensed professional engineer shall also certify that in the event of a fall or collapse, that the facility is designed and manufactured to fall entirely within the boundary lines of the lot on which it is located, and it has been erected in accordance with manufacturers specifications.

## H. HEIGHT

### 1. Height Exceptions of Less Than 50%

If an applicant desires a height exception of less than fifty percent (50%) of the maximum permitted height for that zoning district, set forth in this Chapter 16, that applicant shall file a Certificate of Necessity executed by an Engineer acceptable to the Village and not in the employ of the applicant. The Certificate of Necessity shall provide a statement, from the Engineer, that the relief requested is the minimum necessary to accomplish the applicant's purpose and that unless the relief is granted, the signals to be sent or received by this facility will be substantially impaired or obstructed within the transceiving cell or service area. The Certificate of Necessity shall also state that there is not another location reasonably available that would require a lesser degree of exception, or no exception.

### 2. Exceptions of 50% or Greater

A height exception varying the standards set forth in this Chapter 16 may be granted, where requested exceptions are 50% of the maximum permitted height or greater, upon the holding of a public hearing before the Zoning Board and approval by the Village Board. Notice of the Public Hearing shall be given in the same manner as is required in Chapter 14 for zoning variations. In addition, no exceptions may be granted pursuant to this subparagraph 2 unless the Village is provided with a Certificate of Necessity as set forth in subparagraph 1, above, along with a sealed survey by a licensed surveyor showing the location and height of the obstructing structures or vegetation. The Certificate of Necessity shall provide clear proof, from the Engineer, that the relief requested is the minimum necessary to accomplish the applicant's purpose and that unless the relief is granted, the signals to be sent or received by this facility will be substantially impaired or obstructed within the transceiving cell or service area. The Certificate of Necessity shall also state that there is not another location reasonably available that would require a lesser degree of exception, or no exception. For purposes of this subparagraph 2 a mere differential in the cost of one location over another shall not by itself meet the standard of not being "reasonably available" although a difference in cost may be considered along with other factors. The applicant must also provide to the Village a written affidavit detailing the efforts made by the applicant to fulfill the need for this antenna with a structure requiring less than a 50% exception.

I. INSURANCE

The provider must tender to the Village of Lincolnshire, on an annual basis, proof of public liability insurance covering the facility in an amount not less than One Million Dollars (\$1,000,000.00).

J. ROAD RIGHT-OF-WAY'S

A distance of one-thousand feet (1,000') must be maintained between personal wireless service facilities located in a road right-of-way; whether local, state or federal. The applicant will be required to demonstrate that this requirement has been satisfied. Personal wireless service facilities in road right-of-ways will be required to conform to the regulations of Section 6-16-2(C). Road right-of-ways are not zoned property, however, all such right-of-ways will be regulated as though they are in single-family residential districts, and will comply with all applicable sections of this Chapter 16.

**6-16-6: TEMPORARY FACILITIES:** Temporary personal wireless service facilities shall conform to all of the setback and yard requirements of the district in which they are located, as well as sections 6-16-5A & 6-16-5B of this code, relating to signage and lighting. A temporary personal wireless service facility shall not exceed the height of the facility previously approved for the property, or 100' in the case of a special event. Only one temporary personal wireless service facility will be allowed per site at any one time, unless the approved facility on the subject site allows for co-location, in which case the permissible number of temporary facilities on that site shall be the number approved for that facility. A temporary personal wireless service facility must be located behind the front plane of any principal structure that is on the lot. A temporary personal wireless service facility may be allowed in single-family residential areas only in conformance with the restrictions in this section and those in section 6-16-2C.

A request for a temporary personal wireless service facility may be granted only by the Village Manager, or his designee, in such reasonable numbers and with such reasonable conditions as the Manager or designee may deem appropriate. Any request for additional time beyond that set forth in these paragraphs (A) and (B) shall be subject to review by the Zoning Board and approval of the Village Board.

- A. Special Events - Temporary personal wireless service facilities shall be permitted for each licensed provider for special events (temporary sporting or entertainment events) of a period of not to exceed twelve (12) weeks in a three (3) year time period.
- B. Repairs & Equipment Upgrading - If a permanent personal wireless service facility is under repair or equipment is being upgraded, a temporary facility shall be permitted for each licensed provider for a period of up to ninety (90) days. The owner of the facility must certify in writing the necessity for the repair or equipment upgrade.

**6-16-7: ABANDONMENT & REMOVAL:** When a personal wireless service facility and related equipment is not operated for the provision of personal wireless services for a continuous period of six (6) months or more, such personal wireless service facility and related equipment may be deemed to be abandoned by the Village. The owner of such personal wireless service facility and related equipment shall remove such items within forty-five (45) days following mailing of written notice that removal is required. Such notice shall be sent by registered or certified mail, return receipt requested, by the Village to such owner at the last known address of such owner. If two (2) or more providers of personal wireless services use the personal wireless service facility or related equipment to provide personal wireless services, then the period of non-use under this provision shall be measured from the cessation of operation at the location of said personal wireless service facility and related equipment by all such providers.

**6-16-8: PROHIBITED PLACEMENT OF PERSONAL WIRELESS SERVICE**

**FACILITIES** The relative location of properties zoned as commercial in the Village enables a provider of personal wireless service to provide service to the Village without the need to locate any such facilities on a lot used for residential purposes in the R1, R2, R2A and R3 Zoning Districts. A personal wireless service facility shall be considered a prohibited use on a lot used for residential purposes in such zoning districts. No variation or Special Use Permit shall be granted to permit such a facility on a lot used for residential purposes in these zoning districts.

**6-16-9: NON-CONFORMITIES** Any personal wireless service facility installed and operating prior to the enactment of this Chapter 16, which would be prohibited under Chapter 16, shall be considered a legal non-conforming use and/or a legal non-conforming structure, as the case may be, and shall be subject to the rules on non-conformities provided in Chapter 13 of this Title 6.

(Amd Ord. 06-2014-05, eff. 2/13/06)